



Allen County Redesignation

LSA Document #07-24(APCB)

Overview

This rule incorporates by reference the redesignation of Allen County to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS) published in the Federal Register on January 11, 2007 (72 FR 1292).

Citations Affected

Amends 326 IAC 1-4-1.

Affected Persons

This rule affects sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in Allen County and citizens living in the county.

Reasons for the Rule

Incorporation of the federal redesignation into the state rule will enable sources in Allen County that emit significant levels of certain pollutants to be permitted under the Prevention of Significant Deterioration (PSD) rules. Until the state rulemaking is effective, sources in Allen County will continue to be subject to the state's nonattainment rules, including the permitting rules.

Economic Impact of the Rule

This rule incorporates by reference the federal redesignation of the Allen County 8-hour ozone nonattainment area to attainment. Implementation and enforcement of the new rule will require no additional fiscal expenditures by IDEM above and beyond current federal requirements and the rule will have no fiscal impact on any other unit of state or local government.

Benefits of the Rule

Redesignation of Allen County to attainment for the 8-hour ozone standard properly informs the public that their air meets health-based air quality standards and allows air permits for the applicable emissions in Allen County to be issued under the PSD program, rather than the emission offset program.

Description of the Rulemaking Project

On April 30, 2004, U.S. EPA published nonattainment designations for twenty-four (24) Indiana counties, entirely or in part, for the 8-hour ozone NAAQS (69 FR 23858). The standard is set at 0.08 parts per million (ppm). Allen County was designated as basic nonattainment for the standard. These designations require Indiana to develop a plan to reduce VOC and NO_x emissions and make a demonstration that the areas will meet the 8-hour ozone NAAQS by June 15, 2009.

Ozone monitoring data and photochemical modeling analyses demonstrate that air quality has met the NAAQS for ozone in Allen County in advance of the development of an attainment plan. Air quality in this area has improved largely as a result of regional NO_x reductions from power plants implemented in 2004. As a result, Indiana requested U.S. EPA to change the 8-hour ozone designation for Allen County from nonattainment to attainment. Indiana submitted the redesignation request on May 30, 2006, for this county. Included with this request were summaries of relevant air quality data, evidence of the opportunity for public review of the requests, including public hearings, and a discussion of how the various criteria for redesignation have been met.

U.S. EPA published approval of Indiana's request to redesignate Allen County to attainment for the 8-hour ozone NAAQS in the Federal Register on January 11, 2007 (72 FR 1292). U.S. EPA also approved the maintenance plan for Allen County, which includes maintaining existing programs and air monitoring. The federal action becomes effective on February 12, 2007. U.S. EPA evaluated Indiana's request for redesignation based on a review of the five (5) prerequisites for redesignation of areas from nonattainment to attainment as identified by Clean Air Act Section 107(d)(3)(E). These criteria are:

1. The area has attained the applicable air quality standards.
2. The area has a fully approved State Implementation Plan (SIP) under Section 110(k) of the Clean Air Act.
3. U.S. EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions.

4. U.S. EPA has determined that the maintenance plan for the area has met all of the requirements of Section 175A of the Clean Air Act.

5. The state has met all requirements applicable to the area under Section 110 and Part D of the Clean Air Act.

This rulemaking will incorporate into state rules the final federal approval for redesignating Allen County to attainment for the 8-hour ozone NAAQS. Until the state rulemaking is effective, this county will be subject to the state's nonattainment rules, including the permitting rules. Rules included in the maintenance plan for this county continue to apply to the redesignated area.

An emergency rule was presented to the Air Pollution Control Board on February 7, 2007, that will allow affected sources in Allen County to be permitted under the appropriate permitting rules on February 12, 2007, the effective date of the federal redesignation.

Scheduled Hearings

First Public Hearing: March 7, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana

Second Public Hearing: May 2, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as appropriate.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal law.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner's determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner's determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Publisher. This rulemaking was initiated with a section 8 notice.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Christine Pedersen, Rule Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).